

Proposed
RULES GOVERNING
THE ARKANSAS SOIL AND WATER CONSERVATION COMMISSION'S
FLOODPLAIN ADMINISTRATOR ACCREDITATION PROGRAM

TITLE XVIII

Effective Date:

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RULES GOVERNING
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FLOODPLAIN ADMINISTRATOR ACCREDITATION PROGRAM

SUBTITLE I. GENERAL PROVISIONS

Section 1001.1 PURPOSE

The purpose of this program is to provide a procedure for accrediting floodplain administrators. Each county, city, or town shall designate a person to serve as the floodplain administrator to administer and implement the community Flood Damage Prevention Ordinance or Code pursuant to Ark. Code Ann. §14-268-104 and any local codes and regulations relating to the management of flood-prone areas. This program will assure that persons responsible for important economic decisions effecting health, safety, and welfare of the State receive annual training to assist them in managing development in floodplains.

Section 1001.2 ENABLING AND PERTINENT LEGISLATION

- A. Ark. Code Ann. §14-268-101 et seq., Flood Loss Prevention.
- B. Ark. Code Ann. §15-24-101 et seq., Flood Control.
- C. Ark. Code Ann. §15-20-201 et seq., Arkansas Soil and Water Conservation Commission.

Section 1001.3 DEFINITIONS

The following definitions shall apply to all parts of this title:

- A. "Accreditation" means that the floodplain administrator has met the education and training standards specified by the Arkansas Soil and Water Conservation Commission.
- B. "Accreditation year" means the time from July 1 to June 30. The accredited floodplain administrator must comply with continuing education requirements each year to maintain accreditation.
- C. "Commission" means the Arkansas Soil and Water Conservation Commission, as defined in Ark. Code Ann. §15-20-201 et seq.
- D. "Community" means town, city, county, or other unit of State government which has the authority to adopt, enact and enforce ordinances, building codes or zoning codes, or other appropriate measures restricting, or controlling the management and use of land, structures, and other developments in flood-prone areas.
- E. "Flood Damage Prevention Ordinance" an ordinance adopted by a community in order to implement provisions of participation in the National Flood Insurance Program (NFIP).
- F. "Continuing education" means education designed to maintain and improve the ability to manage floodplains.
- G. "Executive Director" means Executive Director of the Commission.
- H. "Floodplain administrator" means the person designated by a city, town, or a county, to administer and implement this chapter and other federal and state laws and local ordinances and regulations relating to the management of flood-prone areas.

- I. "Flood Damage Prevention Ordinance" refers to an ordinance adopted by a community in order to qualify for participation in the National Flood Insurance Program (NFIP).
- J. "Floodplain management measures" means an overall community program of corrective and preventive measures for reducing future flood damage. These measures take a variety of forms and generally include zoning, subdivision or building requirements, and special-purpose floodplain ordinances.
- K. "Flood-prone areas" means areas that are subject to, or are exposed to, flooding and flood damage.

Section 1001.4 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

Each community ordinance adopted to restrict or control the management and use of land, structures, and other developments in flood-zone areas shall designate a person to serve as the floodplain administrator to administer and implement the ordinance and any local codes and regulations relating to the management of flood-prone areas. Each community may have its own exclusive floodplain administrator, or several communities may employ a single floodplain administrator to manage floodplain development in their communities. A floodplain administrator may be part-time, full-time, or contracted.

Section 1001.5 EFFECTIVE DATE

Unless otherwise provided, all designated floodplain administrators must be accredited by July 1, 2004.

Section 1001.6 REPLACING FLOODPLAIN ADMINISTRATOR

When the floodplain administrator position becomes vacant, the community shall notify the Commission within 30 days and provide a replacement within 60 days. The newly appointed floodplain administrator will have 60 days from the date of appointment to become accredited as described in SUBTITLE II.

SUBTITLE II. ELIGIBILITY REQUIREMENTS

Section 1002.1. AUTHORITY

- A. The Arkansas Soil and Water Conservation Commission is authorized to accredit persons having requisite knowledge in floodplain management and in minimization and prevention of flood hazards and losses pursuant to Ark. Code Ann. §§14-268-106 and 15-24-102.
- B. The Commission may consider an applicant's knowledge, experience, skills, and training in floodplain management and in minimization and prevention of flood hazards and losses.
- C. The Commission may require
 - 1. Passage of an examination;
 - 2. Completion of approved training; or

3. Certification by a floodplain management organization approved by the Commission.
- D. The Commission may offer training courses to satisfy the “demonstration of basic knowledge of floodplain management” accreditation requirements.
 1. Training may be conducted by the Commission or any Commission approved educational institution, business entity or individual.
 2. Training may consist of formal courses, conferences, workshops, on-line courses, home study courses, or other training methods approved by the Commission.

Section 1002.2 REQUIREMENTS FOR ACCREDITATION

An applicant may obtain accreditation by satisfying all of the following requirements:

1. Satisfactorily completing and submitting to the Commission an application form provided by the Commission;
2. Demonstrating a basic knowledge of floodplain management acceptable to the Commission by one of the following:
 - (a) completion of a training course approved by the Commission,
 - (b) evidence of at least 2 years of sufficient experience in floodplain management,
 - (c) proof of current good standing as a certified floodplain manager in a certification program approved by the Commission, or
 - (d) passage of the Commission’s exam; and
3. Submitting a thirty dollar (\$30) accreditation fee.

Section 1002.3 REVIEW OF APPLICATION

- A. The application and supporting documentation to obtain accreditation will be reviewed by the Commission staff. Commission staff will inform the applicant in writing if the application is incomplete and will specify why the application is incomplete.
- B. When a completed application, supplemental application, or requested information is returned, the Executive Director will review the application.
- C. If all requirements are met, accreditation will be issued.

SUBTITLE III. MAINTAINING ACCREDITATION

Section 1003.1 RENEWAL OF ACCREDITATION

- A. Floodplain administrators shall submit the following each year prior to July 1 (when the new accreditation year begins) in order to renew their accreditation:

1. Renewal application on a form provided by the Commission;
 2. Renewal fee; and
 3. Documentation of completing the required continuing education in the form of an attendance certificate or a letter from an approved course provider stating that the floodplain administrator attended the course.
- B. If the applicant does not provide the Commission with the items listed in Section 1003.1, Subsection A, the Executive Director will deny renewal of accreditation.

Section 1003.2 CONTINUING EDUCATION REQUIREMENTS

- A. Between July 1 and June 30 of each year, accreditation holders will be required to obtain continuing education to maintain and improve their ability to implement local floodplain regulations. Accreditation holders must attend training provided by the Commission or provide documentation of attending courses approved by the Commission for accreditation.
- B. Accreditation holders should submit continuing education proposed to meet the annual accreditation requirement to the Commission staff prior to taking a course. However, by supplying documentation of attending training which qualifies for continuing education (See Section 1003.3), credit may be approved after the fact.
- C. All accreditation holders will be required to obtain at least eight (8) hours of continuing education during an accreditation year.
- D. For purposes of satisfying the continuing education requirement, one (1) hour of training will equal one hour of continuing education.
- E. No continuing education, apart from the initial accreditation requirement will be required of floodplain administrators accredited for less than a year on July 1. These administrators will still be expected to complete a renewal application and submit a renewal fee, but will not be required to meet the continuing education requirement until July 1 of the next year.

Section 1003.3 CONTINUING EDUCATION TOPICS

Continuing education topics approved for accreditation may include:

1. Floodplain management,
2. Floodplain mapping,
3. Floodplain management regulations,
4. Flood proofing,
5. Floodplain management ordinance administration,
6. Flooding and flood hazards,
7. Floodplains and ecosystems,

8. Flood hazard mitigation,
9. Multi-objective management,
10. The National Flood Insurance Program (NFIP),
11. Flood insurance,
12. Elevation certificates, and
13. Other topics approved by the Commission.

Section 1003.4 EXPIRATION

- A. Unless renewed, an accreditation certificate shall expire on July 1 following the issuance of the certificate.
- B. Following the expiration of accreditation, reinstatement may be accomplished only by reapplication and compliance with all eligibility requirements.
- C. An exception to expiration may be granted if, within a 30 day period following the expiration date, the accreditation holder can demonstrate that unavoidable circumstances acceptable to the Commission prevented scheduled renewal of accreditation. An example of such circumstances would be hospitalization due to an accident or illness.

SUBTITLE IV. FEES

Section 1004.1 FEE ASSESSMENT

- A. In order to support the costs of operating the floodplain administrator accreditation program in the state of Arkansas, the Commission will assess the community the following fees:
 1. Original accreditation, thirty dollars (\$30.00);
 2. Annual renewal of accreditation, twenty dollars (\$20.00); and
 3. Late fee for renewal thirty (30) days after expiration of accreditation certificate, fifteen dollars (\$15.00).
- B. The Executive Director may establish fees for miscellaneous services provided by the Commission, including photocopying, handling and mailing, providing publications, presenting education programs, and processing dishonored checks. This list may be updated from time to time as the Executive Director determines necessary.
- C. Fees are non-refundable and shall not be prorated.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY	Arkansas Soil and Water Conservation Commission
DIVISION	Water Management
DIVISION DIRECTOR	Earl Smith
CONTACT PERSON	Crystal Phelps
ADDRESS	101 E. Capitol, Suite 350, Little Rock, AR 72201
PHONE NUMBER	501-682-3905 FAX NO. 501-682-3991 E-MAIL crystal.phelps@mail.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Research
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?

Rules Governing the Arkansas Soil and Water Conservation Commission's Floodplain Administrator Accreditation Program

2. What is the subject of the proposed rule?

These rules inform floodplain administrators how to become accredited.

3. Is this rule required to comply with federal statute or regulations? Yes ☐ No ☒

If yes, please provide the federal regulation and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒

If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act?
Yes ☐ No ☐

5. Is this a new rule? Yes ☒ No ☐ If yes, please provide a brief summary explaining the regulation.

The Arkansas Soil and Water Conservation Commission (ASWCC) will accredit floodplain administrators to further train them in minimization and prevention of flood hazards and losses. The Commission will require floodplain administrators to be accredited by July 1, 2004. The Commission will require that persons seeking accreditation demonstrate a basic knowledge of floodplain management and that accreditation holders obtain annual continuing education credit.

Does this repeal an existing rule? Yes ☐ No ☒ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes ☐ No ☒ If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up should be clearly labeled "mark-up".

6. Cite the state law that grants the authority for this proposed rule. If codified, please give Arkansas Code citation.

Ark. Code Ann. § 14-268-101 et seq. (Flood Loss Prevention); Ark. Code Ann. § 15-24-101 et seq. (Flood Control)

7. What is the purpose of this proposed rule? Why is it necessary?

This title will provide an opportunity for persons responsible for enforcing floodplain ordinances and laws to maintain and increase their knowledge of flood loss prevention.

8. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: October 27, 2003

Time: 2 pm

Place: 101 E. Capitol, Suite 350, Little Rock, AR 72205

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)

November 5, 2003

10. What is the proposed effective date of this proposed rule? (Must provide a date.)

November 29, 2003

11. Do you expect this rule to be controversial? Yes ☐ No ☒ If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known.

[illegible]

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Soil and Water Conservation Commission
DIVISION: Water Management
PERSON COMPLETING THIS STATEMENT: Crystal Phelps
TELEPHONE NO.: 501-682-3905 **FAX NO.:** 501-682-3991 **EMAIL:** crystal.phelps@mail.state.ar.us

FINANCIAL IMPACT STATEMENT

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE:

Rules Governing the Arkansas Soil and Water Conservation Commission's Floodplain Administrator Accreditation Program

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?

Yes ☒ No ☐

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibitive, please explain.

The costs of administering the accreditation program will be funded through the accreditation fees (\$30 for original, \$20 for annual renewal) paid by the communities employing floodplain managers.

3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue	<u>0.00</u>
Federal Funds	<u>10,000.00</u>
Cash Funds	<u>0.00</u>
Special Revenue	<u>0.00</u>
Other (Identify)	<u>10000.00</u>
Total	<u>20000.00</u>

Next Fiscal Year

General Revenue	<u>0.00</u>
Federal Funds	<u>10000.00</u>
Cash Funds	<u>0.00</u>
Special Revenue	<u>0.00</u>
Other (Identify)	<u>7000.00</u>
Total	<u>17000.00</u>

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected.

Current Fiscal Year

<u>\$30.00</u>
<u>\$0.00</u>
<u>\$0.00</u>

Next Fiscal Year

<u>\$20.00</u>
<u>\$0.00</u>
<u>\$0.00</u>

\$30.00

\$20.00

The costs of administering the accreditation program will be funded through the accreditation fees paid by the communities employing floodplain managers. Communities will need to pay \$30 for original accreditation of a floodplain administrator the first year and \$20 for annual renewal thereafter. A Federal Emergency Management Assistance Grant will also fund the program.

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

Current Fiscal Year

\$0

\$0

Next Fiscal Year

\$0

\$0
